

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of)
)
Polices and Rules Pertaining) RM-9085
to Local Exchange Carrier) File No. CCB/CPD 97-19
"Freezes" on Consumer Choices of)
Primary Local Exchange or)
Interexchange Carriers)

TO: THE COMMISSION

**REPLY COMMENTS OF
PUERTO RICO TELEPHONE COMPANY**

The Puerto Rico Telephone Company (PRTC) hereby submits its reply to comments on the petition for rulemaking of MCI Telecommunications Corporation (MCI) in the captioned proceeding.¹

In its petition, MCI urges the Commission to adopt rules governing "PIC freezes." PIC freezes protect consumers against unauthorized changes in telecommunications service providers (commonly referred to as slamming).² Consumers may effect PIC freezes through their local exchange carrier. Typically, once a freeze is in place, affirmative action by a consumer, such as direct verbal or written authorization to the LEC, is required to change service providers. If the Commission commences a

1. See FCC Public Notice DA-97-942 (May 5, 1997).

2. The term PIC freeze is a misnomer since it suggests that slamming protection is limited to a consumer's PIC (i.e., presubscribed interexchange carrier). In fact, many carriers now offer slamming protection for each of a consumer's services (e.g., local, intraLATA toll) as well as interexchange service.

rulemaking on the issue of PIC freezes, it should adopt rules consistent with the principles discussed below.

I. SLAMMING PROTECTION IS IN THE PUBLIC INTEREST

"Slamming is one of the most prevalent types of illegal practices by common carriers." CCN, Inc., et al., CC Docket No. 97-144, Order to Show Cause and Notice of Opportunity for Hearing at ¶ 16 (rel. June 13, 1997). PIC freezes are intended to protect consumers against slamming. Thus, the Commission should not prohibit PIC freezes as suggested by the Telecommunications Resellers Association's. TRA at 1. Nor should the Commission suspend PIC freeze programs. See Telco Communications Group, Inc. at 2.

The record in this proceeding demonstrates that PIC freezes serve the public interest. For example, AT&T notes that "the freeze mechanism can provide a useful adjunct to other regulatory compliance and enforcement procedures for controlling slamming." AT&T at 2. WorldCom notes "PIC freezes . . . help preserve consumer choice, rather than impede it." WorldCom at 3. Similarly, Bell Atlantic and NYNEX state that "a PIC freeze is a safeguard that increases consumer choice." Bell Atlantic and NYNEX at 4. Ameritech notes that "slamming protection empowers consumers and protects the foundation of real competition: informed consumer choice." Ameritech at 6. PRTC believes that the guiding principle of any PIC freeze rules should be protection of consumer choice.

II. THE RULES PROPOSED BY MCI SHOULD BE REFINED

If the Commission commences a rulemaking to establish PIC freeze rules, it should adopt the following refinements to the rules proposed by MCI.

A. The Commission Should Adopt A Marketing Disclosure Rule

MCI suggests new rule 64.1200(a):

Carriers are prohibited from engaging in any practices, including soliciting, marketing, or employing PIC freeze or other carrier restrictions, that have the purpose or effect of impeding competition or unreasonably restricting consumer choice.

Rather than adopting a rule prohibiting PIC freeze marketing under the general standard of "unreasonably restricting consumer choice," the Commission should adopt a PIC freeze marketing rule that affirmatively requires carriers to disclose:

- what freeze protection is,
- what service(s) would be covered by the protection,
- how freeze protection may be removed, and
- any charge associated with a freeze or the lifting of a freeze.

See Citizens Communications at 4 (advocating disclosure of "what is a PIC freeze, how it works, and what steps are necessary to change presubscribed carriers after a PIC freeze is in place"). The affirmative disclosure requirements proposed by PRTC would obviate the need for MCI proposed rule 64.1200(b)(1) which addresses deceptive or misleading solicitations.

B. Freezes Should Be At The Service Level

PRTC agrees with AT&T and other commenters that freezes should be at the service rather than account level so that consumers know precisely what they are obtaining with a particular freeze request. See AT&T at 6-7. PRTC, however, objects to AT&T's suggestion that LECs "be prohibited from implementing local carrier selection freezes." AT&T at 6. The advent of intraLATA and local competition, like the advent of interexchange competition, surely will bring a wave of slamming that could be mitigated by freeze protection. See Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, 10 FCC Rcd 9560, 9561 (1995) ("The Commission began receiving slamming complaints after the entry of multiple competitors into the long distance telephone market . . .").

C. The Commission Should Not Specify Freeze Methods

The Commission should not dictate freeze methods. MCI proposed rule 64.1200(b)(4) would require LECs to "conduct a three-way telephone conference between the consumer, the current carrier and the new carrier" to lift a freeze. PRTC believes that carriers should retain discretion regarding whether a freeze may be initiated or lifted verbally or in writing. One commenter suggests "[w]ritten notification directly to the LEC from the customer should be required both to initiate and to remove a PIC freeze." Citizens Communications at 11. This written notice rule too would unnecessarily restrict how carriers effect PIC freezes.

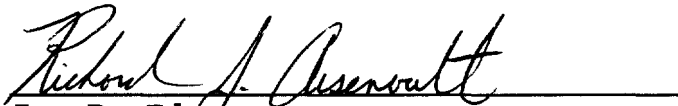
D. Freeze Lists Should Not Be Used For Telemarketing

MCI proposed rule 64.1200(b)(3) would require carriers to furnish a list of all consumers who had elected a freeze to any requesting carrier. If the Commission requires LECs to disclose such information,³ PRTC agrees with Ameritech that it should "prohibit carriers from using lists of customers with slamming protection to identify customers as telemarketing targets." Ameritech at 19.

CONCLUSION

The Puerto Rico Telephone Company respectfully requests that the Commission incorporate the foregoing principles in any rulemaking regarding PIC freezes.

Respectfully submitted,



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3. A number of commenters point out that this information may constitute CPNI and thus may not be disclosed under Section 222 of the Communications Act.

CERTIFICATE OF SERVICE

I, Richard J. Arsenault, hereby certify that a copy of the foregoing Reply Comments of Puerto Rico Telephone Company was served, by first class mail, postage prepaid, this 19th day of June, 1997 to:

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